

NATERIALS ON ALTERNATIVE APPROACHES TO LEGAL SCHOLARSHIP

1987-88

VOLUME I

Prepared by:

Michael J. Trebilcock, Bruce Chapman and Todd Ducharme

With the assistance of colleagues at the University of Toronto Law School

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		Page Nos.
i.	INTRODUCTION	I - 1 to 139
2.	LEGAL HISTORY I	II - 1 to 137
3.	LEGAL HISTORY II	ĭII - 1 to 89
<u> </u>	LAW AND PHILOSOPHY I	IV - 1 to 94
5.	LAW AND PHILOSOPHY II	V - 1 to 113
6.	LAW AND ECONOMICS I	VI - 1 to 47
7.	LAW AND ECONOMICS II	VII - 1 to 114
8.	LAW AND SOCIETY	VIII - 1 to 38
9.	LAW AND SOCIOBIOLOGY	IX - 1 to 108
10.	CRITICAL LEGAL STUDIES	X - 1 to 122
11.	FEMINIST ANALYSIS OF LAW	XI - 1 to 98
12.	ARTHURS REPORT AND CRITIQUES	XII - 1 to 82

TABLE OF CONTENTS

WEEK I INTRODUCTION

- A.C. Hutchinson and Derek Morgan, "The Canengusian Connection: the Kaleidoscope of Tort Theory", (1984) 22 Osgoode Hall L.J. 69
- R.A. Epstein, "Positive and Normative Elements in Legal Education", (1985) 8 Harv. J. of Law and Public Policy 255
- D. Kennedy, "Positive and Normative Elements in Legal Education: A Response", (1985) 8 Harv. 5 of Law and Public Policy 265
- R.A. Epstein and Duncan Kennedy, "Views on Legal Education: An Exchange" (1985) 8 Harv. J. of Law and Public Policy 269
- P.D. Carrington, "Of Law and the River" (1984) 34 J. Legal Ed 222
 - "'Of Law and the River', and of Nihilism and Academic Freedom" (1985) 35 J. Legal Ed. 1
 - I. Introduction Peter W. Martin
 - II. Nihilism Correspondence between Robert W. Sordon and Paul D. Carrington
 - III. Academic Freedom Paul Brest to Paul D. Carrington
 Correspondence Between Paul Brest and Phillip E. Johnson
 Louis B. Schwartz to Paul Brest
 William W. VanAlstyne to the Committee on Academic Freedom and
 Tenure of the American Association of University Professors
 - IV. Professional Schools Guido Calabresi to Paul D. Carrington Correspondence Between Owen M. Fiss and Paul D. Carrington

Arthur Allen Leff, "Unspeakable Ethics, Unnatural Law", (1979) Duke L.J. 1229

Owen Fiss, "Objectivity and Interpretation", (1982) 34 Stanford L.R. 739

WEEK II LEGAL HISTORY I

- R.C.B. Risk, "Volume 1 of the Journal: A Tribute and a Belated Review" (1987), 37 UTLJ 193
- R. Sugarman, "Legal Theory, the Common Law Mind, and the Making of the Textbook Tradition", in Twining (ed.), <u>Legal Theory and Common Law</u> (1986)
- G.E. White, "From Realism to Critical Legal Studies: A Truncated Intellectual History", (1986) 40 Southern Methodist University Law Review 819

R. Gordon, "Critical Legal Histories" (1984) 36 Stanford L.R. 57

WEEK III LEGAL HISTORY II

- J. Nedelsky, "Law and Liberalism" (unpublished)
- P.S. Atiyah, "Liberalism and the Social Framework The English Experience" (unpublished)
- M. Horwitz, The Transformation of American Law pp 67-85, 99-108.

WEEK IV LAW AND PHILOSOPHY I

- H. Sidgwick, The Methods of Ethics, Book III, Ch. XIII, s.3; Book IV, Ch. 1,2,3.
- I. Kant, <u>Fundamental Principles of the Metaphysic of Morals</u> (selected excerpts)
- J. Rawls, A Theory of Justice (1971) (selected excerpts)
- R. Nozick, Anarchy, State and Utopia (1973) (selected excerpts)

Aristotle, Nichomachean Ethics, Book 1

M. Sandel, "The Political Theory of the Procedural Republic", in Hutchinson and Monaghan (eds), The Rule of Law: Ideal or Ideology? (1987)

WEEK V LAW AND PHILOSOPHY II

- R. Dworkin, Law's Empire (1986) Ch. 7
- E.J. Weinrib, "The Intelligibility of the Rule of Law", in Hutchinson and Monaghan (eds) The Rule of Law: Ideal or Ideology? (1987)
- B. Chapman, "Agency and Contingency: The Case of Criminal Attempts" (unpublished)

WEEK VI LAW AND ECONOMICS I

- R. Posner, Economic Analysis of Law (1986), Ch.1 and 2
- G. Calabresi, The New Economic Analysis of Law: Scholarship, Sophistry or Self-Indulgence? (1981)

WEEK XI FEMINIST ANALYSIS OF LAW

- C.A. MacKinnon, "Feminism, Marxism, Method and the State: An Agenda for Theory" (1982) 7 Signs 515
- C.A. MacKinnon, "Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence", (1983) 8 <u>Signs</u> 635
- S.M. Okin, Women in Western Political Thought (1979), Ch. 11
- F. Olsen, "The Politics of Family Law", (1984) 2 Law and Inequality 1

WEEK XII ARTHURS REPORT AND CRITIQUES

- Law and Learning: Report of the Consultative Group on Research and Education in Law (1983) (the Arthurs Report) (excerpts)
- J.H. Schlegel, "Langdell's Legacy, or The Case of the Empty Envelope", (1984) 36 Stanford L.R. 1517
- D. Soberman, Review of Arthurs Report, (1984) 10 Queen's L.J. 236
- D.A. Farber, "The Case Against Brilliance", (1986) Minn. L.R. 917
- P. Schlag, "The Brilliant, the Curious, and the Wrong" (1987) 39 <u>Stanford</u> <u>Law Review</u> 917

WEEK VII LAW AND ECONOMICS II

M. Trebilcock, "The Social Insurance - Deterrence Dilemma of Modern North American Tort Law" (unpublished)

WEEK VIII LAW AND SOCIETY

- J. Hagan, "The New Legal Scholarship: Problems and Prospects" 1 <u>Can, J. of Law and Society</u> 35 (1986)
- D. Black, "The Boundaries of Legal Sociology" from Reasons and Rid (eds.)
 The Sociology of Law A Conflict Perspective (1978)

WEEK IX LAW AND SOCIOBIOLOGY

- M. Dickemann, "Human Sociobiology: The First Decade" No. 1477 New Scientist 38 (1985)
- R. Trivers, Social Evolution (1985), pp. 19-22, 67-69, 95, 98-102, 386-89.
- J.H. Beckstrom, "The Potential Dangers and Benefits of Introducing Sociobiology to Lawyers" 79 Northwestern University Law Review (1985) 1279
- M. Daly and M. Wilson, "Child Abuse and Other Risks of Not Living with Both Parents", 6 Ethology and Sociobiology (1985) 197
- M. Wilson and M. Daly, "Competitiveness, Risk Taking, and Violence: The Young Male Syndrome" 6 Ethology and Sociobiology (1985) 59
- C. Lumsden and A. Gushurst, "Gene-Culture Co-Evolution: Humankind in the Making" in Fetzer (ed.) Sociobiology and Epistemology (1985), 3-28.
- M. Ruse, "Evolutionary Ethics: A Phoenix Arisen" 21 Zygon (1986) 95

WEEK X CRITICAL LEGAL STUDIES

- A.C. Hutchinson and P.J. Monaghan, "Law, Politics and the Critical Legal Scholars: The Unfolding Drama of American Legal Thought" (1984) 35 <u>Stanford</u> L.R. 199
- A. Hunt, "The Theory of Critical Legal Studies" (1986) 6 <u>Oxford J. of Legal Studies 1</u>
- Owen Fiss, "The Death of the Law?" (1986) 72 Cornell L.R. 1
- H. Collins, Marxism and Law (1984) Ch.1

